



STATE OF NEW JERSEY

In the Matter of Larry Jordan,
Juvenile Detention Officer (Special),
Cumberland County

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2021-1458

List Removal Appeal

ISSUED: JULY 26, 2021 (SLK)

Larry Jordan appeals the decision to remove his name from the Juvenile Detention Officer (Special), Cumberland County (County) eligible list on the basis of an unsatisfactory background report.

By way of background, the record indicates that the appellant was a Juvenile Detention Officer with the County from 1985 to 2015, when he was laid off due to the closing of the Juvenile Detention Center for budgetary reasons. Thereafter, the appellant's name was placed on the special reemployment list for Juvenile Detention Officer (Special), Cumberland County, and his name was certified (OL200892) on November 17, 2020, as the first listed candidate. In seeking his removal, the appointing authority indicated that the appellant had an unsatisfactory background.

On appeal, the appellant states that he is a 30-year veteran dealing with the Juvenile Detention Department. He indicates that he requested that the County provide him his work record from 1985 to 2015, but he did not receive a response.

In response, the County, represented by Melissa D. Strickland, Assistant County Counsel, submits its background report. In the background report, it asserted to this agency that the most concerning part of the appellant's background was an assault charge in 1995, which appears to have been coupled with a charge for

resisting arrest. Further, it noted that he had a current restraining order against him. Additionally, the County provided documents that showed that while employed by the County, the appellant had numerous incidents, charges, arrests, and convictions for a variety of charges between 1994 and 1998 including drug charges, contempt, resisting arrest, simple assault, driving with a suspended license and other charges which led to guilty verdicts, diversionary programs, and some jail time.

The County indicates that the appellant was hired as a part-time Youth Aide in 1985 and then as a permanent, part-time Juvenile Detention Officer in 1998. The County explains that his part-time employment status was on an as-needed basis throughout his employment. It notes that the appellant's employment was intermittent, and he did not work between 2000 and 2007 even though he was considered an active employee. The County emphasizes that as a permanent employee, even when not working, he was expected to uphold the standards of a Juvenile Detention Officer.

The County presents that the appellant's name was certified to the subject special re-employment list in November 2020 and he was ranked first. It indicates that the appellant only minimally completed his rehire questionnaire as instead of completing documents, he simply referenced Pre-Trial Intervention (PTI) and directed the investigator to refer to the "police report." Upon its investigation, the County found that he had an adverse criminal background as it notes that the appellant has an active restraining order against him which prevents him from possessing a firearm. The County asserts that the appellant failed to advise it that he faced criminal charges and the County was unaware of these charges. It contends that when he was questioned about his arrest record during a fitness for duty evaluation in September 2000, he denied any arrest history. Therefore, the County states that the appellant intentionally denied the County any opportunity to determine his suitability for continued employment in the subject title, which enabled him to retain seniority and avoid the disciplinary process.

The County indicates that even if the appellant's record is currently or prospectively expunged, the Civil Service Commission (Commission) still has the discretion to remove his name from the list. It indicates that per its records, the charges have not been expunged, and even if the charges have been dismissed, they are still averse to be a Juvenile Detention Officer, which is a law enforcement officer. The County argues that the appellant's failure to report his criminal record to the County at the time the offenses took place and during his continued employment as a law enforcement officer is an offense to public employment. The County also submits that the Cumberland County Juvenile Detention Center policy indicates that employees who are arrested or incarcerated as a result of an offense which was committed during off-duty hours must advise the Superintendent or his designate as soon as possible but not more than 48 hours from the date of the arrest or

incarceration, and if the employee fails to do, appropriate disciplinary action will be taken.

In response, the appellant states that he did not receive the documents and reports that he requested from the County. He asserts that he did follow protocol by reporting arrests at the time of his incidents. The appellant states that the outcome of the trial was that the charges were dismissed. He contends that if he had been found guilty, he would have lost his job. The appellant claims that the Juvenile Detention Center did a background check as it knew about these charges both directly from him and because these incidents were in the newspaper. He presents that he has worked in the Juvenile Detention Office for 30 years as a permanent part-time employee before he was laid off. The appellant states that when the County Jail took over Juvenile Detention, it did a background check and took him off the list. He submits the names of his superiors at the time of these incidents and he asserts that they were aware of these incidents.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

The Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant.

N.J.A.C. 4A:4-4.7(b)1 provides that an appointing authority that requests removal of an eligible's name from a list shall submit to an appropriate representative of the Commission, no later than the date for disposition of the certification, all documents and argument upon which it bases its request. Upon request of the eligible or upon the eligible's appeal, the appointing authority shall provide the eligible with copies of all materials sent to the appropriate Commission representative.

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

Initially, concerning the appellant's claim that the County has not provided all the documents that he requested, the record indicates that the County provided all the information that it submitted to this agency in support of its request to remove the appellant's name from the subject list. Therefore, the Commission finds that the County complied with obligation under *N.J.A.C.* 4A:4-4.7(b)1 and it had no obligation to provide any other documentation for this matter. See *In the Matter of Woodless Dorsainvil* (CSC, decided May 19, 2021).

In this matter, the appointing authority presents that the appellant was involved in many adverse incidents in the 1990s. It asserts that the most concerning part of the appellant's background report is a 1995 assault charge, which appears to have been coupled with a charge for resisting arrest. Moreover, it indicates that there is a current restraining order against him. Further, it notes that under County policy, which was in place at the time of these incidents, the appellant was to inform his superiors about these incidents. However, the County believes that the appellant never informed his superiors, and because the appellant was never a full-time employee and only employed "as needed," it believes that this history was never discovered by the County. In response, the appellant asserts that these matters were dismissed, that he informed his superiors about these incidents, and that his superiors were also aware of these incidents as they were in the newspaper. He contends that he could not have maintained his employment in the subject title if he had not informed his superiors and these matters were not dismissed.

The Commission finds that the County has sufficient grounds to remove the appellant's name from the subject list based on the current active restraining order against him. In this regard, it is recognized that a Juvenile Detention Officer is a law enforcement employee who must help keep order and promote adherence to the law. Juvenile Detention Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). See also *In re Phillips*, 117 *N.J.* 567 (1990). The public expects Juvenile Detention Officers to present a personal background that exhibits respect for the law and rules.

It is also noted that when the appellant submitted his current application for the subject reemployment list, when asked about criminal matters, in addition to documentation being requested, the appellant was asked to give details. Instead, the appellant simply referenced his police report and circled PTI. When asked about a judgment being issued against him and if yes to explain, he indicated that a police

report was attached. When asked if he had been arrested, admitted into PTI, or had other negative interactions with the law and to provide documentation, he circled PTI and checked “No.” When asked if he had ever been convicted of any crime or any offense under any circumstances, he did not indicate “Yes” or “No” and referenced the police report. When asked if he had ever been arrested or charged, even if not convicted, he did not check “Yes” or “No” and when it said if yes, give details, he wrote “N/A” and again referenced the police report. When asked if he had ever been questioned or investigated by law enforcement or called to testify, he checked “No.” When asked to complete an arrest/investigative history listing charges and details for “yes” answers from his arrest history, the appellant did not complete the chart and only referenced the police report. When asked about ordinances or other non-criminal violation, he did not check “Yes” or “No” and did not provide details. The appellant also left the charts that asked him about his motor vehicle violations and suspensions blank. While it is unclear specifically what the appellant attached, the record indicates numerous negative interactions with the law. Therefore, one police report would not appear to have covered all incidents. Further, the appellant did not provide details as asked. Therefore, even if there was no intent to deceive, in light of the appellant’s record, his failure to fully disclose all documentation and to describe each incident in detail was material. At minimum, the appointing authority needed this information to have a complete understanding of his background in order to properly evaluate his candidacy. *See In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017).

Moreover, the record indicates that the appellant is prohibited from possessing a firearm due to the current restraining order against him, and although the County highlights that the appellant is prohibited from possessing a firearm, it does not clearly state that possession of a firearm is a requirement for the position and he should be removed for his inability to carry a firearm. Therefore, the record is unclear if possession of a firearm is a requirement for this position. However, if it is a requirement, the record indicates that he also should have been removed from the list for the inability to carry a firearm. *See In the Matter of Teresa Meyers* (MSB, decided June 8, 2005) and *In the Matter of Richard Roszkowski* (MSB, decided April 20, 2005).

Regarding whether the appellant’s background from the 1990s is sufficient cause for removal or whether the appellant failed to inform his superiors about these incidents at the time they occurred or when subsequently asked during his employment, the Commission need not decide those issues as he is being removed for the aforementioned reasons.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21ST DAY OF JULY, 2021

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